

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE DISTRICT OF PUERTO RICO**

3   **UNITED STATES OF AMERICA,**

4   **Plaintiff,**

5   **v.**

**CRIMINAL NO. 15-396 (GAG)**

6   **DAVID SANTIAGO COLÓN,**

7   **Defendant.**

8                                   **ORDER SUPPRESSING IDENTIFICATION EVIDENCE**

9           The Supreme Court held in *Puerto Rico v. Sanchez Valle*, --- U.S. ----, 136 S. Ct. 1863,  
10 1869-1877 (2016), that for the purposes of the Double Jeopardy Clause, the Commonwealth and  
11 United States governments constitute a single sovereign, in as much as the former's power to  
12 prosecute derives from the latter's. Thus, the Commonwealth's prosecution, conviction, and  
13 sentence of an individual bars his subsequent prosecution by federal authorities for the same  
14 conduct under equivalent criminal law.

15           The issue now before us is whether a Commonwealth final judgment suppressing  
16 identification evidence should likewise bar its use in a subsequent federal prosecution based on the  
17 very same underlying facts. We answer in the affirmative.

18           David Santiago Colón was charged in Commonwealth court for attempted murder and  
19 violations of Articles 5.04 and 5.15 of the Puerto Rico Weapons Law. He unsuccessfully moved to  
20 suppress evidence of his identification. However, on appellate review, the intermediate court  
21 found the identification testimony below untrustworthy<sup>1</sup> and remanded the matter in order for the  
22 case to continue with independent evidence. The Commonwealth sought certiorari review from

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23                                   <sup>1</sup> The Puerto Rico Court of Appeals relied on Commonwealth Supreme Court precedent which, in turn  
24 invokes Supreme Court identification procedure jurisprudence.

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1 the Puerto Rico Supreme Court, which denied the same. The case was ultimately dismissed at the  
2 trial level.

3 After the Puerto Rico Supreme Court denied review, but prior to the case being dismissed,  
4 a federal grand jury indicted Santiago Colón for being a felon in possession of a firearm, 18 U.S.C.  
5 § 922(g)(1).<sup>2</sup> This Court must give the Commonwealth court suppression findings and judgment  
6 preclusive effect. Not doing so would ignore the constitutional reality that indeed the  
7 Commonwealth and United States are but one sovereign when it comes to criminally prosecuting  
8 individuals. While prosecutors from the United States Attorney's Office did not participate in the  
9 Commonwealth court criminal proceedings against Santiago Colón, their local counterparts in fact  
10 did. Their authority to do so ultimately emanates from the United States. Sanchez Valle.

11 Allowing the identification evidence issue to proceed in this forum would hence permit the  
12 same sovereign to relitigate and review a final and unsuccessful defense of a constitutional  
13 violation.

14 **SO ORDERED.**

15 In San Juan, Puerto Rico this 4th day of October, 2016.

16 *s/ Gustavo A. Gelpí*  
17 GUSTAVO A. GELPI  
18 United States District Judge  
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23 <sup>2</sup> There is no dispute that both the Commonwealth and federal charges emanate from the very same  
24 identification procedure.